

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**UNITED STATES OF AMERICA**

**\* CRIMINAL DOCKET NO: 07-416**

**v.**

**\* SECTION: "J" (4)**

**DONALD BATTISTE**

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**\* \* \***

**FACTUAL BASIS**

Competent evidence, both testimonial and demonstrative, would be adduced at trial from witnesses in order to prove the defendant, **DONALD BATTISTE**, guilty beyond a reasonable doubt for both counts of depriving a person of constitutionally-protected rights, while acting under color of law on or about October 6, 2006. The facts which underlay Battiste's guilty plea to the indictment are as follows:

Donald Battiste came to the attention of the New Orleans Police Department's Public Integrity Bureau (PIB) when a reliable source of information contacted an investigator and told him that Battiste was stealing money from arrested subjects. PIB investigators, under the supervision of Lieutenant Bruce Adams, decided to conduct an "integrity check" in the early morning hours of October 6, 2006, using a decoy and a covert vehicle. Since Battiste was assigned to the Eighth Police District, which includes the French Quarter, they selected as the venue an open-air public parking lot, hard by the Mississippi River, since the location was ideal

for surveillance. The decoy sat in the front passenger seat of the covert sport utility vehicle and the surveillance van was parked inside the parking lot approximately 50 feet away.

Lieutenant Adams supplied the decoy with \$510 in cash, in various denominations, before the decoy entered the covert vehicle. The money, which was treated with a fluorescent powder, was divided into three packets, with one placed into the decoy's left front pocket; another placed in the decoy's right front pants pocket; and the last packet placed into his left rear pants pocket. Lieutenant Adams gave the decoy very specific instructions on how to act when the police confronted him: he was told to put his hands in the air; not to make any sudden moves; not to argue with the officers; and to refrain from doing anything that could possibly be construed as aggressive or combative. Lieutenant Adams placed the decoy in the vehicle and told him to act as if he were drunk. PIB set up a surveillance perimeter, including a video camera, with an audio component, and at that point NOPD's communication division was instructed to dispatch Battiste and his partner (who was not implicated) to the scene to respond to the undercover scenario of a drunk male harassing women in the area.

The videotape captures the interaction between Battiste and the decoy: Battiste and his partner arrived on the scene in their marked police unit. Battiste, who was driving, got out of the unit and walked to the driver's side of the covert vehicle, while his partner went to the passenger side, where the decoy was seated. When Battiste realized the decoy was on the passenger side, he quickly went around the front of the covert vehicle and imposed himself in front of his partner. After the decoy was ordered out of the SUV, Battiste turned him around, so that his back faced Battiste. Battiste, who, as the video demonstrates, was not provoked in any way, gratuitously and violently struck the decoy in the back with a karate-like blow with his elbow, which caused the decoy to cry out in pain, audible on tape, as he dropped to his knees. Once the

decoy fell, Battiste handcuffed him and walked him to the driver's side of the police vehicle. As Battiste was walking the decoy to the marked unit, he told his partner to search the covert vehicle.

Meanwhile, before he placed the decoy into the police car, Battiste searched him and took money from his pants pocket and, in turn, put it in the right front pants pocket of his uniform. Battiste then placed the decoy in the back seat of the police car and told his partner to start the paperwork. At this point, a supervisor appeared on the scene and, after a short conversation with Battiste, drove off.

After his supervisor left, Battiste walked approximately 75ft. to a corner of the parking lot, where he went behind a steel box, out of view of the surveillance camera, but still in visual contact with a PIB investigator who was parked nearby. The investigator observed Battiste take the money from his pants pocket and divide it into two packets, placing one in his right front pants pocket and the other in his right rear pants pocket, and then walk back to the police vehicle. Battiste and his partner then drove off to bring the decoy to Central Lock-up. After they arrived at the facility, the partner brought the decoy inside for booking, while Battiste remained outside in the police car. Once they left the booking facility, Battiste was kept under constant surveillance for the remainder of his shift.

After Battiste left the lock-up, Lieutenant Adams went into the facility to release the decoy, when he learned that \$251.00 was missing from the \$510.00 which the officers planted. The decoy told Lieutenant Adams that he hurt his knee when Battiste knocked him to the ground and he further stated that it was very painful for him to walk.

Battiste completed his shift, and proceeded to a private security detail he worked at a local elementary school, where he was placed under arrest and transported to the Public Integrity

Bureau. After waiving his *Miranda* rights, Battiste confessed to taking the money from the decoy, adding that his rookie partner did not know that he took the cash. Battiste's incriminating statements were audio-recorded and these, is well, would be offered as trial evidence.

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MICHAEL E. MCMAHON  
Assistant United States Attorney  
LA Bar Roll No. 10095

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Date

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ROMA A. KENT  
Counsel For Defendant  
LA Bar Roll No.

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Date

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DONALD BATTISTE  
Defendant

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Date